

**THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES**

**UNIT 18 – CRIMINAL LITIGATION\***

**CASE STUDY MATERIALS**

**Information for Candidates on Using the Case Study Materials**

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

**Instructions to Candidates Before the Examination**

- A clean/unannotated copy of the case study materials is attached to this examination.
- You are permitted to take your own clean/unannotated copy of the case study materials and a statute book, where permitted, into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.
- In the examination, candidates must comply with the CILEX Examination Regulations – Online Examinations or with the CILEX Examination Regulations – Online Examinations with Remote Invigilation.

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**CASE STUDY MATERIALS**  
**ADVANCE INSTRUCTIONS TO CANDIDATES**

You are a trainee lawyer working in the Criminal Litigation Department of Kempstons LLP solicitors. The firm has a standard criminal contract with the Legal Aid Agency and participates in several local duty solicitor schemes. Among the cases being handled by the department at present are the following:

**CASE ONE: DONNA FRANKLIN**

This client, aged 27, has recently been arrested on suspicion of theft from the person, jointly with Leroy Stokes (for whom Kempstons does not act). You have acted for this client previously and are aware that she has a significant history of drug addiction and abuse. You note that Donna Franklin has prominent cold sores around her mouth, and a fading, but still clearly visible, bruise on her cheek.

As you understand the case, it is alleged that your client, together with Leroy Stokes, decided to steal a high specification laptop, valued at £1500, from its owner, a freelance advertising copywriter, who was sitting at a table in a coffee shop. It is alleged that your client approached the victim and engaged him in conversation to distract his attention while Stokes actually stole the laptop. Your client was arrested after police officers recognised her from the descriptions given by the victim and a member of staff in the coffee shop. Neither Stokes nor the laptop have been traced. The victim is distraught because the laptop contained a substantial quantity of work relating to commissions he was working on, which was not backed up elsewhere. There is CCTV coverage showing your client and Stokes together about 30 minutes before the time of the alleged offence in a nearby shopping centre. Your client accepts that she was with Stokes in the shopping centre but denies being in the coffee shop or any involvement with the offence. She is a single mother with two children aged under five.

**CASE TWO: AJAY KUMAR**

This client, aged 19, has been charged with a number of offences. The charges appear to arise out of his alleged membership of a local gang. A summary of the prosecution case, as contained in the Initial Details of the Prosecution Case (IDPC) is provided in **DOCUMENT 1**. Details of your instructions from Ajay Kumar are contained in **DOCUMENT 2**. Kempstons represented Ajay Kumar as court duty solicitor in relation to his initial appearance in court. Ajay Kumar is studying a catering course at the local further education college. He also works four evenings a week in a restaurant operated by his uncle. His gross annual earnings are approximately £9000. He has no capital or other assets.

**CASE THREE: LIAM WHITE**

This client, aged 20, is a student at the University of Banbury. He has been charged with conspiracy to supply cocaine, a class A controlled drug. He is jointly charged with a number of others. The co-defendants are higher up the chain of command of the alleged drugs network. Your client is of previous good character and the case against him depends almost entirely on the evidence of undercover police officers who had infiltrated the network. Your client's instructions are that he had no interest in either consuming or supplying drugs but was encouraged to get involved by these undercover officers.

**Charge 1**

Obstructing a police officer in the execution of his duty, contrary to s 89 Police Act 1996.

and

**Charge 2**

Possession of a bladed article in a public place contrary to s 139 (1) Criminal Justice Act 1988.

On 13 April 2022 at approximately 9.45 pm DC Berkowitz was on plainclothes duty in Town Hall Square in Luton. He observed two young men, one approaching from Upper George Street and the other from Wellington Street. When they met, they both went to a cashpoint at the Nationwide Building Society at the junction of the two streets. They did not actually use the cashpoint, but DC Berkowitz observed what appeared to be a knife being handed from one to the other. He recognised the recipient of the knife as being Ajay Kumar, who was known to him from previous enquiries. DC Berkowitz also had information which linked Kumar to a local gang.

DC Berkowitz approached Kumar and stated that he wanted to speak to him. He identified himself as a police officer, and Kumar responded, "So what, I ain't done nothing." DC Berkowitz then took hold of Kumar and tried to search him. Kumar pushed DC Berkowitz away from him, and then started to run away. DC Berkowitz called for support and two uniformed officers who were on patrol in the vicinity then attended and arrested Kumar for police obstruction. A number of bystanders gathered to observe what was going on.

Kumar was conveyed to Luton police station. He was presented to the custody sergeant and his detention was authorised. DC Berkowitz then proceeded to search Kumar and found a pointed kitchen knife with a six-inch blade in an inside jacket pocket. Kumar was further arrested for possession of a bladed article in a public place.

Kumar was then interviewed and gave a no comment interview. He was then charged with obstructing a police officer and possession of a bladed article in a public place and unconditionally bailed to appear in court on 20 April 2022.

**Charge 3**

Arson, jointly with Meles Gjeraj, aged 16, (for whom Kempstons does not act).

On the evening of 17 April 2022 at about 7.30 pm, a fire broke out at shop premises, 245 Shefford Rd Luton. The leaseholder and business proprietor is Faisal Islam, who is understood to be the father of a leading member of a rival gang to the one which Ajay Kumar is a member of.

An accelerant was used to start a fire inside the main door and was also sprayed on the external surfaces of the property. The business was fitted with a sprinkler system and as a result, while the internal fire caused a certain amount of damage to the immediate area, it was extinguished before it could spread. There was also some smoke damage. The external fire scorched the external paintwork and two large plate glass windows were severely cracked. The total value of the damage is estimated at £6,500.

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CCTV footage from the premises showed two individuals wearing dark hooded clothing outside the premises at 7.28 pm. One was holding two bicycles and the other could be seen close by the letterbox and then spraying something across the outside of the premises. A few seconds later flames could be seen inside the premises and the fire alarm was activated. The two individuals then cycled away in the direction of Luton town centre. The two individuals appeared to be either teenagers or young adults. Their faces were not visible.

Roy Strong, a retired police officer, was walking his dog on Shefford Road shortly after 7.30 pm. He saw two males cycling towards him. At this point he was about half a mile from the scene of the fire. When he became aware of the fire he reported the sighting to the police and gave descriptions of the two cyclists as:

Male 1 aged 18 – 21, wearing a dark hooded top and black tracksuit bottoms. Average build, approximately 5'10" tall, thin face, clean-shaven and light skinned South Asian pigmentation.

Male 2 aged 15 – 17, also wearing a dark hooded top and black tracksuit bottoms. Lightly built, approximately 5'7" tall, roundish face with Mediterranean or Middle Eastern pigmentation.

Roy Strong subsequently participated in an identification procedure and identified Ajay Kumar as Male 1. He did not make an identification for Male 2.

Jade McDonald, aged four, was playing in the garden of her home, 124 Shefford Rd, on the evening of 17 April 2022 at about 7.30 pm. She saw two young men cycling past and one of them threw a carrier bag into the hedge. She told her mother about this, and when her mother heard about the fire she reported the finding of the bag to the police. Forensic examination of the bag and its contents, an empty bottle which had held petrol, enabled the retrieval of a DNA profile which could later be matched to Meles Gjeraj.

Meles Gjeraj came to the attention of the police in relation to this matter when a teacher at his school overheard him talking about his involvement to others at school and reported this to the police.

Subsequent analysis of mobile phone records indicates that both Ajay Kumar and Meles Gjeraj made calls or texted within an area of 1 km surrounding the scene of the offence during the period from 30 minutes before to 30 minutes after the crime. There is one text message from Meles Gjeraj to Ajay Kumar about 20 minutes after the offence was committed.

Both defendants were arrested in relation to this matter on 19 April 2022. They were interviewed and gave no comment interviews. Kumar was held in police custody pending his appearance in court on 20 April 2022. Gjeraj was bailed.

**Charges 1 and 2**

I had arranged to meet a friend in the town centre that evening. I am training to be a chef and I needed a knife for a practical session at college the following day. I knew that this friend had such a knife and I arranged to borrow it. Just after he handed the knife to me and I put it in my pocket, I was approached by a man wearing ordinary clothing. He said something about being a police officer, but he didn't produce any identification and then basically took hold of me and tried to search through my clothing. I wasn't going to stand for that, so I pushed him away and started to get away from the scene. However, two uniformed police officers came into sight and grabbed me saying something about being arrested for obstructing a police officer. I was trying to explain that I had no idea whether or not the bloke who grabbed me was a police officer. By this stage a small crowd had formed, and people were starting to video what was going on using their mobile phones. I have seen some footage, which actually shows a lot of what went on.

I didn't say anything at the police station when I was interviewed, after they found the knife, because I wanted to get confirmation from college that I would have needed the knife for my course. I thought that would be enough to sort everything out.

You have located on social media, footage of the incident taken by a bystander which shows Kumar with the two uniformed officers and DC Berkowitz. Kumar, addressing DC Berkowitz, says 'You never showed me no ID. You never told me what you were doing grabbing my jacket.' DC Berkowitz replies 'I told you I was police and that I wanted to search you.'

**Charge 3**

I deny any involvement with this offence. I was nowhere near the site of the offence. I was playing pool with a friend of mine, Jas Patel. The witness who has identified me must be mistaken.

I accept that I have several previous convictions for offences including affray, possession of a bladed article and theft. The affray and possession of a bladed article arose in relation to incidents between a gang of which I was in the past a member and another gang. I recently completed an 18-month Detention and Training Order.

I have always complied with bail conditions previously.

**End of Case Study Materials**